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SENATE BILL 1035

47TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2005

INTRODUCED BY

Stuart Ingle

AN ACT

RELATING TO EXPENDITURE OF PUBLIC MONEY; PROVIDING FOR CAPITAL EXPENDITURES; AUTHORIZING THE ISSUANCE OF SEVERANCE TAX BONDS; AMENDING THE SEVERANCE TAX BONDING ACT; CREATING FUNDS TO BE ADMINISTERED BY THE LEGISLATIVE COUNCIL SERVICE; AUTHORIZING CONTRACTS BETWEEN THE LEGISLATIVE COUNCIL SERVICE AND CERTAIN STATE AGENCIES; MAKING APPROPRIATIONS; DECLARING AN EMERGENCY.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. A new Section 2-20-1 NMSA 1978 is enacted to read:

"2-20-1. [NEW MATERIAL] LEGISLATIVE CAPITAL FUNDS-- CREATED-- DISBURSEMENTS. --

A. The "legislative bond proceeds capital fund" is created in the state treasury. The fund shall be administered by the legislative council service and shall consist of

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1 severance tax bond proceeds appropriated to the fund. Earnings
2 from investment of the fund shall be credited to the fund.
3 Money in the fund is subject to appropriation by the
4 legislature for disbursement for capital projects pursuant to
5 the provisions of this section. Except as otherwise provided,
6 any unexpended or unencumbered balance remaining at the end of
7 a fiscal year shall not revert. Disbursements from the fund
8 shall be made only pursuant to the provisions of this section
9 and upon warrants drawn by the secretary of finance and
10 administration pursuant to vouchers signed by the director of
11 the legislative council service.

12 B. The "legislative appropriation capital fund" is
13 created in the state treasury. The fund shall be administered
14 by the legislative council service and shall consist of money
15 appropriated and transferred to the fund. Earnings from
16 investment of the fund shall be credited to the fund. Money in
17 the fund is subject to appropriation by the legislature for
18 disbursement for capital projects pursuant to the provisions of
19 this section. Any unexpended or unencumbered balance remaining
20 at the end of a fiscal year shall not revert. Disbursements
21 from the fund shall be made only pursuant to the provisions of
22 this section and upon warrants drawn by the secretary of
23 finance and administration pursuant to vouchers signed by the
24 director of the legislative council service.

25 C. Upon an appropriation from the legislative bond

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1 proceeds capital fund or the legislative appropriation capital
2 fund to a state agency, the director of the legislative council
3 service shall enter into a contract with the agency for
4 disbursing the money to the agency. The contract shall:

5 (1) contain such provisions as are necessary
6 to:

7 (a) ensure that the money is expended
8 for purposes consistent with the appropriation; and

9 (b) direct the proper amounts to those
10 specific needed capital projects as determined by resolution of
11 both houses of the legislature; and

12 (2) provide that no money shall be disbursed
13 for a capital project until the agency has certified that the
14 project has developed to the point where the money is needed
15 and will be expended within the time limits established by law
16 or in the contract."

17 Section 2. Section 7-27-12 NMSA 1978 (being Laws 1961,
18 Chapter 5, Section 10, as amended by Laws 2001, Chapter 37,
19 Section 1 and also by Laws 2001, Chapter 338, Section 1) is
20 amended to read:

21 "7-27-12. WHEN SEVERANCE TAX BONDS TO BE ISSUED. --

22 A. The state board of finance shall issue and sell
23 all severance tax bonds when authorized to do so by any law
24 [~~that sets out the amount of the issue and the recipient of the~~
25 ~~money~~].

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1 B. The state board of finance shall also issue and
2 sell severance tax bonds authorized by Sections 72-14-36
3 through 72-14-42 NMSA 1978, and such authority as has been
4 given to the interstate stream commission to issue and sell
5 such bonds is transferred to the state board of finance. The
6 state board of finance shall issue and sell all severance tax
7 bonds only:

8 (1) in the case of bonds the proceeds of which
9 are appropriated to the legislative bond proceeds capital fund,
10 when the director of the legislative council service notifies
11 the board in writing that a recipient agency has certified to
12 the director that a project has developed to the point that the
13 money is needed and will be expended within the time limits
14 established by law; or

15 (2) in the case of all other bonds, when so
16 instructed by resolution of the governing body or by written
17 direction from an authorized officer of the recipient of the
18 bond money.

19 C. Except as provided in Subsection D of this
20 section, proceeds from supplemental severance tax bonds shall
21 be used only for public school capital outlay projects pursuant
22 to the Public School Capital Outlay Act or the Public School
23 Capital Improvements Act.

24 D. Proceeds from supplemental severance tax bonds
25 issued pursuant to Paragraph (2) of Subsection A of Section 19
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1 of Chapter 6 of Laws 1999 (1st S.S.) shall be used for the
2 purposes specified in that paragraph.

3 E. Except as provided in Subsection F of this
4 section, the state board of finance shall issue and sell all
5 supplemental severance tax bonds when so instructed by
6 resolution of the public school capital outlay council pursuant
7 to Section 7-27-12.2 NMSA 1978.

8 F. The state board of finance shall issue and sell
9 supplemental severance tax bonds authorized by Paragraph (2) of
10 Subsection A of Section 19 of Chapter 6 of Laws 1999 (1st S.S.)
11 when so instructed by resolution of the commission on higher
12 education. "

13 Section 3. [NEW MATERIAL] SEVERANCE TAX BONDS--
14 AUTHORIZATIONS--APPROPRIATION OF PROCEEDS.--

15 A. The state board of finance may issue and sell
16 severance tax bonds in compliance with the Severance Tax
17 Bonding Act in an amount not to exceed sixty-five million
18 dollars (\$65,000,000). The state board of finance shall
19 schedule the issuance and sale of the bonds in the most
20 expeditious and economical manner possible. Proceeds from the
21 sale of the bonds are appropriated to the legislative bond
22 proceeds capital fund for expenditure in fiscal year 2005 and
23 subsequent fiscal years to fund capital projects deemed to be
24 necessary by joint resolution of the legislature.

25 B. The director of the legislative council service
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1 shall notify the state board of finance in writing when the
2 money from the proceeds of the severance tax bonds authorized
3 in this section is to be disbursed for the purposes of this
4 act.

5 C. Before the director of the legislative council
6 service may notify the state board of finance pursuant to
7 Subsection B of this section, the agency recipient of the
8 proceeds must have certified to the director that the project
9 for which the proceeds will be expended is developed
10 sufficiently so that the agency reasonably expects to:

11 (1) incur within six months after the date of
12 certification a substantial binding obligation to a third party
13 to expend at least five percent of the bond proceeds for the
14 project; and

15 (2) spend at least eighty-five percent of the
16 bond proceeds within four years after the date of
17 certification.

18 D. Except as otherwise provided in this section or
19 another section of this act, any undisbursed balance of a
20 disbursement for a project from the legislative bond proceeds
21 capital fund, including a project that has been reauthorized,
22 shall revert as follows:

23 (1) for projects for which severance tax bond
24 proceeds were disbursed to match federal grants, six months
25 after completion of the project;

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1 (2) for projects for which severance tax bond
2 proceeds were disbursed to purchase vehicles, heavy equipment,
3 educational technology or other equipment or furniture that is
4 not related to a more inclusive construction or renovation
5 project, at the end of the fiscal year following the fiscal
6 year in which the certification was made for the purchase;

7 (3) for projects for which severance tax bond
8 proceeds were disbursed to purchase emergency vehicles or other
9 vehicles that require special equipment, at the end of the
10 fiscal year two years following the fiscal year in which the
11 certification was made for the purchase; and

12 (4) for all other projects for which severance
13 tax bond proceeds were disbursed, within six months of
14 completion of the project, but no later than the end of fiscal
15 year 2010.

16 E. Money from severance tax bond proceeds provided
17 pursuant to this act shall not be used to pay indirect project
18 costs.

19 F. For the purpose of this section, "unexpended
20 balance" means the remainder of a disbursement after reserving
21 for unpaid costs and expenses covered by binding written
22 obligations to third parties.

23 Section 4. GENERAL FUND APPROPRIATION. --Thirty-three
24 million five hundred thousand dollars (\$33,500,000) is
25 appropriated from the general fund to the legislative

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1 appropriation capital fund for expenditure in fiscal year 2005
2 and subsequent fiscal years to fund capital projects deemed to
3 be necessary by joint resolution of the legislature. Any
4 unexpended or unencumbered balance remaining at the end of any
5 fiscal year shall not revert to the general fund.

6 Section 5. APPROPRIATION--GAME PROTECTION FUND. -- Four
7 hundred thousand dollars (\$400,000) is appropriated from the
8 game protection fund to the legislative appropriation capital
9 fund for expenditure in fiscal year 2005 and subsequent fiscal
10 years to fund capital projects deemed to be necessary by joint
11 resolution of the legislature. Any unexpended or unencumbered
12 balance remaining at the end of a fiscal year shall not revert
13 to the game protection fund.

14 Section 6. APPROPRIATION--AGING AND LONG-TERM SERVICES
15 DEPARTMENT--AGING PROJECTS. -- Five million dollars (\$5,000,000)
16 is appropriated from the legislative appropriation capital fund
17 to the aging and long-term services department for expenditure
18 in fiscal year 2005 and subsequent fiscal years for those
19 specific capital projects deemed to be necessary by joint
20 resolution of the legislature. The appropriation is contingent
21 upon the director of the legislative council service entering
22 into a contract with the aging and long-term services
23 department pursuant to the provisions of Section 2-20-1 NMSA
24 1978 prior to January 1, 2006. Any unexpended or unencumbered
25 balance of the appropriation shall revert to the legislative

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1 appropriation capital fund pursuant to the terms of the
2 contract.

3 Section 7. APPROPRIATION--GENERAL SERVICES DEPARTMENT--
4 GENERAL SERVICES PROJECTS.--Seven million dollars (\$7,000,000)
5 is appropriated from the legislative bond proceeds capital fund
6 to the general services department for expenditure in fiscal
7 year 2005 and subsequent fiscal years for those specific
8 capital projects deemed to be necessary by joint resolution of
9 the legislature. The appropriation is contingent upon the
10 director of the legislative council service entering into a
11 contract with the general services department pursuant to the
12 provisions of Section 2-20-1 NMSA 1978 prior to January 1,
13 2006. Any unexpended or unencumbered balance of the
14 appropriation shall revert to the legislative bond proceeds
15 capital fund pursuant to the terms of the contract.

16 Section 8. APPROPRIATION--DEPARTMENT OF HEALTH--HEALTH
17 PROJECTS.--Twenty million dollars (\$20,000,000) is appropriated
18 from the legislative bond proceeds capital fund to the
19 department of health for expenditure in fiscal year 2005 and
20 subsequent fiscal years for those specific capital projects
21 deemed to be necessary by joint resolution of the legislature.
22 The appropriation is contingent upon the director of the
23 legislative council service entering into a contract with the
24 department of health pursuant to the provisions of Section
25 2-20-1 NMSA 1978 prior to January 1, 2006. Any unexpended or

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1 unencumbered balance of the appropriation shall revert to the
2 legislative bond proceeds capital fund pursuant to the terms of
3 the contract.

4 Section 9. APPROPRIATION--CULTURAL AFFAIRS DEPARTMENT--
5 CULTURAL AFFAIRS PROJECTS.--Three million dollars (\$3,000,000)
6 is appropriated from the legislative appropriation capital fund
7 to the cultural affairs department for expenditure in fiscal
8 year 2005 and subsequent fiscal years for those specific
9 capital projects deemed to be necessary by joint resolution of
10 the legislature. The appropriation is contingent upon the
11 director of the legislative council service entering into a
12 contract with the cultural affairs department pursuant to the
13 provisions of Section 2-20-1 NMSA 1978 prior to January 1,
14 2006. Any unexpended or unencumbered balance of the
15 appropriation shall revert to the legislative appropriation
16 capital fund pursuant to the terms of the contract.

17 Section 10. APPROPRIATION--DEPARTMENT OF MILITARY
18 AFFAIRS--MILITARY AFFAIRS PROJECTS.--Two million dollars
19 (\$2,000,000) is appropriated from the legislative appropriation
20 capital fund to the department of military affairs for
21 expenditure in fiscal year 2005 and subsequent fiscal years for
22 those specific capital projects deemed to be necessary by joint
23 resolution of the legislature. The appropriation is contingent
24 upon the director of the legislative council service entering
25 into a contract with the department of military affairs

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1 pursuant to the provisions of Section 2-20-1 NMSA 1978 prior to
2 January 1, 2006. Any unexpended or unencumbered balance of the
3 appropriation shall revert to the legislative appropriation
4 capital fund pursuant to the terms of the contract.

5 Section 11. APPROPRIATION--CORRECTIONS DEPARTMENT--
6 CORRECTIONS PROJECTS.--Fourteen million dollars (\$14,000,000)
7 is appropriated from the legislative appropriation capital fund
8 to the corrections department for expenditure in fiscal year
9 2005 and subsequent fiscal years for those specific capital
10 projects deemed to be necessary by joint resolution of the
11 legislature. The appropriation is contingent upon the director
12 of the legislative council service entering into a contract
13 with the corrections department pursuant to the provisions of
14 Section 2-20-1 NMSA 1978 prior to January 1, 2006. Any
15 unexpended or unencumbered balance of the appropriation shall
16 revert to the legislative appropriation capital fund pursuant
17 to the terms of the contract.

18 Section 12. APPROPRIATION--CHILDREN, YOUTH AND FAMILIES
19 DEPARTMENT--CHILDREN, YOUTH AND FAMILIES PROJECTS.--Five
20 million dollars (\$5,000,000) is appropriated from the
21 legislative appropriation capital fund to the children, youth
22 and families department for expenditure in fiscal year 2005 and
23 subsequent fiscal years for those specific capital projects
24 deemed to be necessary by joint resolution of the legislature.
25 The appropriation is contingent upon the director of the

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1 legislative council service entering into a contract with the
2 children, youth and families department pursuant to the
3 provisions of Section 2-20-1 NMSA 1978 prior to January 1,
4 2006. Any unexpended or unencumbered balance of the
5 appropriation shall revert to the legislative appropriation
6 capital fund pursuant to the terms of the contract.

7 Section 13. ~~APPROPRIATION--GENERAL SERVICES DEPARTMENT--~~
8 ~~GENERAL SERVICES PROJECTS.~~ --Four million five hundred thousand
9 dollars (\$4,500,000) is appropriated from the legislative
10 appropriation capital fund to the general services department
11 for expenditure in fiscal year 2005 and subsequent fiscal years
12 for those specific capital projects deemed to be necessary by
13 joint resolution of the legislature. The appropriation is
14 contingent upon the director of the legislative council service
15 entering into a contract with the general services department
16 pursuant to the provisions of Section 2-20-1 NMSA 1978 prior to
17 January 1, 2006. Any unexpended or unencumbered balance of the
18 appropriation shall revert to the legislative appropriation
19 capital fund pursuant to the terms of the contract.

20 Section 14. ~~APPROPRIATION--OFFICE OF THE STATE~~
21 ~~ENGINEER--WATER PROJECTS.~~ --Nine million five hundred thousand
22 dollars (\$9,500,000) is appropriated from the legislative bond
23 proceeds capital fund to the office of the state engineer for
24 expenditure in fiscal year 2005 and subsequent fiscal years for
25 those specific capital projects deemed to be necessary by joint

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1 resolution of the legislature. The appropriation is contingent
2 upon the director of the legislative council service entering
3 into a contract with the office of the state engineer pursuant
4 to the provisions of Section 2-20-1 NMSA 1978 prior to January
5 1, 2006. Any unexpended or unencumbered balance of the
6 appropriation shall revert to the legislative bond proceeds
7 capital fund pursuant to the terms of the contract.

8 Section 15. APPROPRIATION--COMMISSION ON HIGHER
9 EDUCATION--HIGHER EDUCATION PROJECTS.--Twenty million dollars
10 (\$20,000,000) is appropriated from the legislative bond
11 proceeds capital fund to the commission on higher education for
12 expenditure in fiscal year 2005 and subsequent fiscal years for
13 those specific capital projects deemed to be necessary by joint
14 resolution of the legislature. The appropriation is contingent
15 upon the director of the legislative council service entering
16 into a contract with the commission on higher education
17 pursuant to the provisions of Section 2-20-1 NMSA 1978 prior to
18 January 1, 2006. Any unexpended or unencumbered balance of the
19 appropriation shall revert to the legislative bond proceeds
20 capital fund pursuant to the terms of the contract.

21 Section 16. APPROPRIATION--CUMBRES AND TOLTEC SCENIC
22 RAILROAD COMMISSION--RAILROAD PROJECTS.--Two million dollars
23 (\$2,000,000) is appropriated from the legislative bond proceeds
24 capital fund to the Cumbres and Toltec scenic railroad
25 commission for expenditure in fiscal year 2005 and subsequent

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1 fiscal years for those specific capital projects deemed to be
2 necessary by joint resolution of the legislature. The
3 appropriation is contingent upon the director of the
4 legislative council service entering into a contract with the
5 Cumbres and Toltec scenic railroad commission pursuant to the
6 provisions of Section 2-20-1 NMSA 1978 prior to January 1,
7 2006. Any unexpended or unencumbered balance of the
8 appropriation shall revert to the legislative bond proceeds
9 capital fund pursuant to the terms of the contract.

10 Section 17. APPROPRIATION--STATE GAME COMMISSION--GAME
11 AND FISH PROJECTS.--Three million five hundred thousand dollars
12 (\$3,500,000) is appropriated from the legislative bond proceeds
13 capital fund to the state game commission for expenditure in
14 fiscal year 2005 and subsequent fiscal years for those specific
15 capital projects deemed to be necessary by joint resolution of
16 the legislature. The appropriation is contingent upon the
17 director of the legislative council service entering into a
18 contract with the state game commission pursuant to the
19 provisions of Section 2-20-1 NMSA 1978 prior to January 1,
20 2006. Any unexpended or unencumbered balance of the
21 appropriation shall revert to the legislative bond proceeds
22 capital fund pursuant to the terms of the contract.

23 Section 18. APPROPRIATION--STATE FAIR COMMISSION--STATE
24 FAIR PROJECTS.--Three million dollars (\$3,000,000) is
25 appropriated from the legislative bond proceeds capital fund to
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1 the state fair commission for expenditure in fiscal year 2005
2 and subsequent fiscal years for those specific capital projects
3 deemed to be necessary by joint resolution of the legislature.
4 The appropriation is contingent upon the director of the
5 legislative council service entering into a contract with the
6 state fair commission pursuant to the provisions of Section
7 2-20-1 NMSA 1978 prior to January 1, 2006. Any unexpended or
8 unencumbered balance of the appropriation shall revert to the
9 legislative bond proceeds capital fund pursuant to the terms of
10 the contract.

11 Section 19. APPROPRIATION--STATE GAME COMMISSION--GAME
12 AND FISH PROJECTS.--Four hundred thousand dollars (\$400,000) is
13 appropriated from the legislative appropriation capital fund to
14 the state game commission for expenditure in fiscal year 2005
15 and subsequent fiscal years for those specific capital projects
16 deemed to be necessary by joint resolution of the legislature.
17 The appropriation is contingent upon the director of the
18 legislative council service entering into a contract with the
19 state game commission pursuant to the provisions of Section
20 2-20-1 NMSA 1978 prior to January 1, 2006. Any unexpended or
21 unencumbered balance of the appropriation shall revert to the
22 legislative appropriation capital fund pursuant to the terms of
23 the contract.

24 Section 20. EMERGENCY.--It is necessary for the public
25 peace, health and safety that this act take effect immediately.

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